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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1634**

In re the Matter of the Welfare of the Child of:

V. L. and A. R., Parents.

**Filed April 13, 2020
Affirmed
Peterson, Judge***

Ramsey County District Court
File No. 62-JV-19-268

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St. Paul, Minnesota (for respondent Ramsey County Social Services Department)

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Considered and decided by Smith, Tracy M., Presiding Judge; Rodenberg, Judge;
and Peterson, Judge.

UNPUBLISHED OPINION

PETERSON, Judge

In this appeal from the district court's termination of her parental rights (TPR),
appellant argues that the record does not support the district court's determinations that:

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

(1) she failed to satisfy the duties of the parent-child relationship; (2) she is a palpably unfit parent; (3) the county made reasonable efforts to reunite the family; (4) the child is neglected and in foster care; and (5) TPR is in the child's best interests. We affirm.

FACTS

While she was pregnant, appellant-mother V.L. began working with the Ramsey County Social Services Department's (RCSSD) Mothers First Program, which assists pregnant women and young mothers who struggle with substance abuse. V.L. completed a rule 25 chemical-use assessment through Mothers First in November 2017.

On December 12, 2017, V.L. prematurely gave birth to E.L. At the time of the birth, V.L. tested positive for amphetamines, and E.L.'s meconium tested positive for amphetamines and cannabinoids. V.L. admitted to an RCSSD child-protection worker that she took methamphetamine the day before E.L.'s birth and that she had used the drug since she was 18 years old.

When E.L. was ready to be discharged from the hospital in January 2018, the St. Paul Police Department placed a 72-hour child-protection hold on E.L. V.L. admitted to an amended CHIPS petition at an emergency protective-care hearing. Temporary legal custody of E.L. was transferred to the RCSSD, which placed E.L. in foster care with his maternal aunt. E.L.'s presumed father's parental rights were terminated by court order on March 27, 2019.

An RCSSD social worker worked with V.L. to develop a case plan, which set forth the following requirements for V.L.: (1) undergo a rule 25 assessment and follow all recommendations, with six months of sobriety as demonstrated through random urine

analyses (UAs); (2) undergo a mental-health diagnostic assessment and follow all recommendations; (3) participate with in-home services to establish a healthy and sober parenting routine; (4) establish stable sober housing; and (5) assure that she is able to meet E.L.'s basic needs.

V.L. entered herself into a number of chemical-dependency treatment programs, but never maintained an extended period of sobriety. V.L. entered inpatient treatment at Tapestry on December 19, 2017, but left on December 24, 2017. V.L. consistently objected to inpatient treatment because she could not have E.L. with her. She entered inpatient treatment at Avivo, which allows children, in February 2018, but was discharged for uncooperative behavior on March 2, 2018. The RCSSD had arranged for V.L. to have a trial home visit with E.L. at Avivo, but the RCSSD terminated the trial visit when V.L. was discharged.

V.L. successfully completed a 30-day inpatient treatment program at Tapestry in April 2018, but she failed to complete the aftercare and outpatient components of the program. She began attending outpatient treatment at the Tubman Chrysalis Center in June 2018 but was discharged in August 2018 because she required a higher level of care.

V.L. entered inpatient treatment at RS Eden on September 17, 2018, but left against staff advice on October 12, 2018. In January 2019, she began outpatient treatment at New Beginnings but left without completing the program in February 2019 to attend treatment at Roots Recovery. V.L. was discharged from Roots Recovery in March 2019 due to her positive drug tests and some missed sessions. The RCSSD Mothers First program discontinued working with V.L. in March 2019 because she was not making meaningful

progress after more than a year of assistance. Finally, V.L. began outpatient treatment at My Home, Inc. in May 2019, but she had a number of missed meetings and positive drug tests. In addition to this treatment history, V.L. also rejected referrals to two inpatient programs where she could have had E.L. with her.

V.L. appeared for UAs four times from June through September 2018, and all four times she tested positive. She also tested positive for amphetamines on March 13, April 19, and July 3, 2019. On July 11, 2019, which was four days before the start of her TPR trial, she tested positive for amphetamines and fentanyl.

V.L. was also unsuccessful at completing treatment for her mental-health issues. Following her diagnostic assessment in November 2017, V.L. met with her therapist in November 2018 and agreed to a mental-health treatment plan. V.L. was discharged from therapy in February 2019 because she missed too many sessions. At the time of trial, she was not receiving mental-health treatment and was not taking her prescribed medications.

V.L. successfully completed other aspects of her case plan. She achieved safe and stable housing beginning in June 2018 when she moved in with her father. She also completed parenting classes at Fathers First. Finally, she provided for E.L.'s care during her supervised visits, and neither the RCSSD nor E.L.'s guardian ad litem (GAL) had concerns about E.L.'s safety during these visits.

Following a four-day trial—during which V.L. did not appear for the final day—the district court terminated V.L.'s parental rights on four statutory bases: (1) V.L. substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed by the parent-child relationship under Minn. Stat. § 260C.301, subd. 1(b)(2)

(2018); (2) V.L. was palpably unfit to be a party to the parent-child relationship under Minn. Stat. § 260C.301, subd. 1(b)(4) (2018); (3) following E.L.’s placement out of the home, reasonable efforts, under the direction of the court, failed to correct the conditions leading to E.L.’s placement under Minn. Stat. § 260C.301, subd. 1(b)(5) (2018); and (4) E.L. was neglected and in foster care under Minn. Stat. § 260C.301, subd. 1(b)(8) (2018). This appeal follows.

D E C I S I O N

Statutory Bases

V.L. argues that the four statutory bases relied on by the district court do not support termination of her parental rights. Appellate courts give considerable deference to a district court’s TPR decision. *In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). Appellate courts will affirm a district court’s TPR “when at least one statutory ground for termination is supported by clear and convincing evidence and termination is in the best interests of the child, provided that the county has made reasonable efforts to reunite the family.” *Id.* (citation omitted). “[W]e review the factual findings for clear error and the statutory basis for abuse of discretion. A finding is clearly erroneous if it is manifestly contrary to the weight of the evidence . . . An abuse of discretion occurs if the district court improperly applied the law.” *In re Welfare of Child of J.K.T.*, 814 N.W.2d 76, 87 (Minn. App. 2012) (citations and quotation omitted).

Because it is only necessary to show that one statutory ground for termination is supported by clear and convincing evidence, we will address only one of the four statutory grounds that the district court applied as a basis for terminating V.L.'s parental rights.¹

E.L. was neglected and in foster care

V.L. argues that the district court abused its discretion by finding that E.L. was neglected and in foster care. Under the TPR statute:

“Neglected and in foster care” means a child:

- (1) who has been placed in foster care by court order;
- and
- (2) whose parents’ circumstances, condition, or conduct are such that the child cannot be returned to them; and
- (3) whose parents, despite the availability of needed rehabilitative services, have failed to make reasonable efforts to adjust their circumstances, condition or conduct, or have willfully failed to meet reasonable expectations with regard to visiting the child or providing financial support for the child.

Minn. Stat. § 260C.007, subd. 24. (2018).

The statute also provides:

In determining whether a child is neglected and in foster care, the court shall consider, among other factors, the following:

- (1) the length of time the child has been in foster care;
- (2) the effort the parent has made to adjust circumstances, conduct, or conditions that necessitates the removal of the child to make it in the child’s best interest to be returned to the parent’s home in the foreseeable future, including the use of rehabilitative services offered to the parent;
- (3) whether the parent has visited the child within the three months preceding the filing of the petition, unless extreme financial or physical hardship or treatment for mental

¹ We express no opinion about the three remaining statutory bases that the district court concluded were proved.

disability or chemical dependency or other good cause prevented the parent from visiting the child or it was not in the best interests of the child to be visited by the parent;

(4) the maintenance of regular contact or communication with the agency or person temporarily responsible for the child;

(5) the appropriateness and adequacy of services provided or offered to the parent to facilitate a reunion;

(6) whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time, whether the services have been offered to the parent, or, if services were not offered, the reasons they were not offered; and

(7) the nature of the efforts made by the responsible social services agency to rehabilitate and reunite the family and whether the efforts were reasonable.

Minn. Stat. § 260C.163, subd. 9 (2018).

V.L. argues that the district court failed to consider three of the factors that Minn. Stat. § 260C.163, subd. 9, directs courts to consider when determining whether a child is neglected and in foster care; namely the fifth, sixth, and the seventh factors. V.L.'s assertion that the district court did not address these factors is not supported by the record. The district court found:

62. [V.L.], despite receiving referrals and/or services from at least ten (10) chemical dependency treatment centers and two (2) mental health providers, has failed to make reasonable efforts to address her chemical dependency and mitigate her mental health prognosis. She rejected every referral and recommendation for in-patient treatment except one (1). [V.L.] relapsed after the single in-patient program she completed when she did not follow the aftercare and out-patient components of the program. While relapse may be part of an addict's long road to sobriety, [V.L.'s] failure to commit to aftercare and out-patient programming demonstrates that her relapse was not part of an on-going struggle toward health and healing, but a continued denial to seriously address her chemical dependency issues. [V.L.] enrolled herself in

multiple programs that were not recommended, without communicating with her RCSSD worker. This provided her with more freedom and unsupervised time than an in-patient program, with the result that she continued to use drugs. The testimony of the Mothers First worker was credible and compelling that [V.L.] wants, but is incapable of completing, in-patient treatment, in particular noting [V.L.'s] rejection of at least two (2) in-patient programs that would have allowed her to have [E.L.] with her. Few such programs are available.

63. [V.L.'s] continued use of drugs despite her lengthy history with multiple treatment centers, including her refusal to engage with centers that allowed [E.L.] to stay with her as she requested, indicate that additional services are not likely to bring about lasting parental adjustment enabling [E.L.] to return to her care within an ascertainable period of time.

...

65. Lasting parental adjustment would require [V.L.'s] cooperation with her social workers and treatment providers. [V.L.] says she cooperates, but her actions show her cooperation is on her terms. She avoids her RCSSD worker, and refuses to follow mental health and in-patient treatment referrals. She ran between parenting and out-patient programs to avoid in-patient treatment. . . . Her inability to cooperate with the professionals assigned to assist her also demonstrates that additional services are not likely to bring about lasting parental adjustment enabling [E.L.] to return to her care within an ascertainable period of time.

66. RCSSD provided reasonable efforts to reunify [V.L.] and [E.L.]. These efforts have not been successful for more than a year.

These findings directly address factors five, six, and seven. Finding 62 specifically addresses factor five by recognizing that V.L. was provided or offered services from at least ten chemical-dependency treatment centers and two mental-health providers, but she failed to make the reasonable efforts that she needed to make to benefit from these services.

The finding also explains that V.L.'s failure to benefit from the services was caused by her failure to commit to aftercare and outpatient programming and her denial to seriously address her chemical-dependency problem.

Finding 63 specifically addresses factor six by recognizing that, given V.L.'s refusal or failure to engage in programs that were made available to her, providing additional services is not likely to be successful. This finding also recognizes that V.L. was appropriately offered services that allowed E.L. to stay with her as she requested. Also, finding 65 specifically addresses factor six by explaining that, because V.L. is not able to cooperate with professionals assigned to assist her, it cannot be determined that additional services will make it possible for E.L. to be returned to her care.

Finally, finding 66 specifically addresses factor seven by stating that RCSSD provided reasonable efforts to reunify V.L. and E.L. Although finding 66, by itself, is somewhat conclusory, it must be read in light of the district court's extensive findings about specific services that were provided or offered to V.L. Finding 66 also recognizes that RCSSD tried to help V.L. for more than a year, which is an indication of the reasonableness of RCSSD's efforts.

Findings 62, 63, 65, and 66 are not clearly erroneous. When they are read in context with the district court's other findings, these four findings demonstrate that the district court did not abuse its discretion when it concluded that E.L. was neglected and in foster care.

Best Interests

V.L. argues that the district court also abused its discretion by finding that TPR is in E.L.'s best interests. "We review a district court's ultimate determination that [TPR] is in a child's best interest for an abuse of discretion." *In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 905 (Minn. App. 2011), *review denied* (Minn. Jan. 6, 2012).

To support her contention that TPR is not in E.L.'s best interests, V.L. relies on the GAL's testimony that E.L. "knows who [h]is mother is and enjoys visiting with her." But, although the GAL recommended that it is in E.L.'s best interest to maintain *contact* with V.L., the GAL limited that recommendation with the qualifier: "if it's safe for [E.L.], and [V.L.] is able to demonstrate behaviors that don't put [E.L.'s safety] at risk." Ultimately, the GAL recommended TPR because V.L. had not demonstrated that she "has an insight into [her] drug abuse and how that would cause safety risks for [E.L.]"

The district court concluded that "[V.L.] clearly loves [E.L.] and she demonstrates this love for him appropriately for many hours every week. Her visits, though, are limited and supervised." The district court determined that "[b]y the nature of being a toddler, [E.L.] will make constant demands on [V.L.] and require constant monitoring all while he is incapable of complying with parental demands. [V.L.] has demonstrated that she is not fit to manage such a relationship" due to her ongoing chemical-abuse and mental-health issues. The district court did not abuse its discretion by determining that TPR is in E.L.'s best interests.

Affirmed.